



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH, DEVELOPMENT AND ACQUISITION
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

JAN 20 2006

MEMORANDUM FOR DISTRIBUTION


Subj: CHANGE 03-7 TO THE NAVY MARINE CORPS ACQUISITION
REGULATION SUPPLEMENT (NMCARS) AND CHANGE 03-5 TO THE
NAVY MARINE CORPS ACQUISITION GUIDE (NMCAG)

Encl: (1) NMCARS Change 03-7
(2) NMCAG Change 03-5

The changes identified in Enclosures (1) and (2) are hereby incorporated into the November 2003 NMCARS and the November 2003 NMCAG, respectively.

The NMCARS and NMCAG are hereby amended as a result of (i) the designation of NAVSUP as the Department of the Navy-wide Executive Agent for Javits-Wagner-O'Day Act related policy, (ii) the DFARS Change Notice 20051209 transfer of text on ozone-depleting substances from Subpart 211.2 to 223.8 of the Defense Federal Acquisition Regulation Supplement (DFARS) and changes to the requirements for contract terms, (iii) DFARS Change Notice 20050524 which requires establishment of procedures concerning use of non-DoD contracts, (iv) the DFARS Change Notice 20050901 removal of restrictions on the acquisition of totally enclosed lifeboats from the DFARS requiring Navy applicable restrictions be added to the NMCARS, and (v) the DFARS Change Notice 20041220 transfer of text on contract debts to the Procedures, Guidance, and Information.

These changes are effective immediately and will be reflected in the NMCARS and NMCAG online. The point of contact for NMCARS and NMCAG is Katherine Petersen at (703) 614-9641.


M. F. Jaggard
Chief of Staff/Policy
for DASN(ACQ)

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The following changes are hereby incorporated into the November 2003 NMCARS:

1. Subpart 5201.6 CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES is revised to add paragraph (b)(3) to 5201.601-90 Department of the Navy authorities and responsibilities as follows:

5201.601-90 Department of the Navy authorities and responsibilities.

(a) *NAVFACENGCOM cognizance of public works and civil works.*

(1) Responsibility. Commander, NAVFACENGCOM is responsible for awarding and administering all architect-engineer, construction and facilities support contracts.

(2) Administration of construction portions of contracts. When a contract for construction of civil works is made directly between the DoN and a builder (as distinguished from the contractor who is to operate the facilities) NAVFACENGCOM will be the contracting agency with the work to be financed by transfer of funds from the sponsoring contracting activity to NAVFACENGCOM. All other contracts potentially requiring construction of civil works shall include the clause at 5252.201-9000, Civil Works - Delegation to Naval Facilities Engineering Command.

(b) *NAVSUPSYSCOM contracting responsibilities.* NAVSUPSYSCOM contracting responsibilities include:

(1) providing DoN-wide policy and procedures for simplified acquisition as defined in FAR Part 13, except that NAVFAC may utilize other procedures for construction, A/E services, and base support; and

(2) contracting for supplies and services throughout the DoN for which no other contracting activity, office or command is delegated contracting authority. This includes contracting for Naval (but not Marine Corps) activities for visual information (motion picture and videotape) productions under the technical cognizance of and via coordination with the Naval Media Center, unless an exception is granted by the Chief of Naval Operations (N09C4).

(3) providing DoN-wide policy and procedures for Javits-Wagner-O'Day Act acquisitions as defined in FAR Part 8.

(c) *Military Sealift Command (MSC) responsibility for services of ships and craft for other than transportation.* The MSC is responsible for purchasing or otherwise providing DoN activities, as requested, the services of ocean-going ships and craft for purposes other than transportation such as oceanographic research and survey including underwater research; cable laying; repair facilities; and range instrumentation. This includes ferries and tugs, but excludes (1) other harbor craft; ferries and tugs for husbanding services; and (3) ferries and tugs used for OCONUS services. Requirements for such services or ships, except those (1) specifically excluded by this paragraph (c); (2) met by ships and craft organic to the Military Services; and (3) required in the installation phase of a system by the systems contractor, shall be placed with MSC in a timely manner to permit maximum competition.

(d) *Chief of Naval Research (CNR) responsibility for the charter or sublet of government owned research ships.* The CNR is responsible for DoN charter party agreements wherein DoN owned oceanographic research ships are leased to research institutions for the performance of contract research.

2. Subpart 5211.2—USING AND MAINTAINING REQUIREMENTS DOCUMENTS is hereby deleted and the language at 5211.271 (DFARS 211.271) Elimination of Use of Class I Ozone Depleting Substances is hereby moved to Subpart 5223.8—OZONE DEPLETING SUBSTANCES as follows:

SUBPART 5223.8—OZONE DEPLETING SUBSTANCES

5223.803 (DFARS 223.803) Policy

(1) and (2)(iii) Technical certification and approval requirements are set forth in paragraph 6-5.9.2 of OPNAVINST 5090.1B “Environmental and Natural Resources Program Manual”.

3. Under Part 5213 SIMPLIFIED ACQUISITION PROCEDURES, 5213.003 Policy is revised to correct the reference to 5201.601 as follows:

5213.003 Policy

Pursuant to 5201.601-90(b), NAVSUPSYSCOM has responsibility for providing DoN-wide policy for simplified acquisition procedures. Specific policy, procedures, and guidance will be promulgated by the Deputy Commander for Contracting Management, NAVSUPSYSCOM.

4. Under Subpart 5217.2—OPTIONS, 5217.204 is hereby revised to change the level of approval for task and delivery order contract terms as follows:

5217.204 Contracts.

(e) Approval for use of contract terms in excess of the limitations specified in FAR 17.204(e) must be supported by valid justifications, documented in writing and obtained prior to solicitation. Approval shall be at a level not lower than the CCO. A determination to establish an ordering period in excess of 10 years, in accordance with DFARS 217.204(e)(i)(C), must be executed by ASN(RDA). Submit such requests via DASN(ACQ).

5. Subpart 5217.78 is added to Part 5217 SPECIAL CONTRACTING METHODS as follows:

SUBPART 5217.78—CONTRACTS OR DELIVERY ORDERS ISSUED BY A NON-DOD AGENCY

5217.7802 Policy.

ASN(RDA) is the decision authority for assisted acquisitions exceeding \$500,000,000. DASN(ACQ) is the decision authority for assisted acquisitions exceeding \$50,000,000. At or below \$50,000,000, the Requiring Organization Commander/Commanding Officer is the decision authority. This authority may be delegated but, for requirements over \$5,000,000, decision authority may only be delegated to an official in the Requiring Organization who is a Flag or General Officer; a member of the Senior Executive Service; or, for a requirement arising from a claimant activity without Flag/General Officer/SES, the commanding officer of that activity. For assisted acquisitions for services, see NMCARS 5237.170-2(b).

(e) Data collection is as directed in the DoN Guidelines for Proper Use of Non-DoD Contracts dated December 14, 2004.

6. Subpart 5225.70 is added to Part 5225 FOREIGN ACQUISITION as follows:

SUBPART 5225.70—AUTHORIZATION ACTS, APPROPRIATION ACTS, AND OTHER STATUTORY RESTRICTIONS ON FOREIGN ACQUISITION

5225.7090 Restriction on totally enclosed lifeboats

(a) In accordance with 10 U.S.C. 2534(a), do not purchase a totally enclosed lifeboat that is a component of a naval vessel unless it is manufactured in the United States or Canada.

(b) 10 U.S.C. 2534(h) prohibits the use of a contract clause or certification to implement this restriction.

(c) Implementation of this restriction shall be accomplished through management and oversight techniques that achieve the objective of this restriction without imposing a significant management burden on the Government or Contractor.

7. Under Subpart 5232.6—CONTRACT DEBTS, 5232.610 is deleted and moved to the NMCAG.

8. Under Subpart 5237.1—SERVICE CONTRACTS GENERAL, the numerical designation of 5237.170-3 is changed to 5237.170-2 and the titles of paragraphs (a) and (b) are also changed to correspond to current DFARS language as follows:

5237.170-2 (DFARS 237.170-2) Approval requirements.

(a) *Acquisition of services through a contract or task order that is not performance based.*

(1) The HCA is the agency's designee for approval of acquisition of services at or below \$50,000,000 that is not performance based. For acquisitions above \$5 million, HCA authority may be delegated only to the Deputy/Assistant Commander for Contracts, a Flag or General Officer or SES who is a member of the Acquisition Professional Community, or, for commands/locations without a local SES/Flag/General Officer, to the Commanding Officer, but not further.

(2) For acquisitions exceeding \$50,000,000, but below \$500,000,000, the approval authority is DASN(ACQ).

(b) *Acquisition of services through use of a contract or task order issued by a non-DoD agency.* In addition to review and approval in accordance with the DoN Management Oversight Process for Acquisition of Services, approval must be obtained from:

(1) The HCA for actions at or below \$50,000,000. For acquisitions above \$5 million, HCA authority may be delegated only to the Deputy/Assistant Commander for Contracts, a Flag or General Officer or SES who is a member of the Acquisition Professional Community, or, for commands/locations without a local SES/Flag/General Officer, to the Commanding Officer, but not further.

(2) DASN(ACQ) for actions exceeding \$50,000,000.

The following revisions are hereby incorporated into the November 2003 NMCAG:

1. Part G5208 REQUIRED SOURCES OF SUPPLIES AND SERVICES is added as follows:

PART G5208 REQUIRED SOURCES OF SUPPLIES AND SERVICES

**SUBPART G5208.7 ACQUISITION FROM NONPROFIT AGENCIES
EMPLOYING PEOPLE WHO ARE BLIND OR SEVERELY DISABLED**

G5208.790 Policy

Pursuant to 5201.601-90(b)(3), NAVSUPSYSCOM has responsibility for providing DoN-wide policy, procedure, and guidance for Javits-Wagner-O'Day Act acquisitions.

2. Part G5232.6—CONTRACT DEBTS is revised to add G5232.610 as follows:

G5232.610 (PGI 232.610) Demand for payment of contract debt.

(b)(3) All requests for deferment shall be submitted to the contracting officer for review in accordance with FAR 32.613. The contracting officer shall forward the request, with a recommendation, to the ASN(FM&C) via DASN(ACQ).